

RAVALLI COUNTY

SUBSURFACE WASTEWATER

TREATMENT AND DISPOSAL

REGULATIONS

Effective March 1, 2006
Amended July 26, 2006

RAVALLI COUNTY
SUBSURFACE WASTEWATER TREATMENT AND DISPOSAL REGULATIONS

Table of Contents

Article 1 General Information	Page 1
Section 1.1 Title	Page 1
Section 1.2 Applicability	Page 1
Section 1.3 Authority	Page 1
Section 1.4 Purpose	Page 1
Section 1.5 Designation of Authority	Page 1
Section 1.6 Definitions	Page 2
 Article 2 General Requirements	 Page 2
 Article 3 Administrative Requirements	 Page 3
Section 3.1 Application for Installation Permit	Page 3
Section 3.2 Denial of Installation Permit or Disapproval of Plans	Page 6
Section 3.3 Expiration of Installation Permit	Page 7
Section 3.4 Inspections	Page 7
Section 3.5 Wastewater Treatment System Certified Installers	Page 8
Section 3.6 Licensed Septic Tank Pumpers	Page 9
 Article 4 Technical Requirements	 Page 10
Section 4.1 Compliance	Page 10
Section 4.2 General Requirements	Page 10
Section 4.3 Variances	Page 11
 Article 5 Existing Wastewater Treatment Systems	 Page 13
Section 5.1 Continuation of Use of Existing System	Page 13
Section 5.2 Repair, Alteration, Enlargement or Extension of Existing System	 Page 13
 Article 6 Enforcement and Penalty	 Page 14
Section 6.1 Misrepresentation	Page 14
Section 6.2 Penalties	Page 14
 Article 7 General Provisions	 Page 15
Section 7.1 Appeals to the Department or Board of Health	Page 15
Section 7.2 Public Hearings	Page 15
Section 7.3 Right to Inspect	Page 15
Section 7.4 Conflict of Ordinances	Page 16
Section 7.5 Effect of Partial Invalidity	Page 16
Section 7.6 Effective Date	Page 16
 Attachment 1 Examples of possible conditions and remedies for review of old systems	 Page 17

RAVALLI COUNTY SUBSURFACE WASTEWATER TREATMENT AND DISPOSAL REGULATIONS

ARTICLE 1. GENERAL INFORMATION

SECTION 1.1 Title

These regulations shall be known as the Ravalli County Wastewater Treatment and Disposal Regulations.

SECTION 1.2 Applicability

These regulations shall be applicable throughout Ravalli County and shall be enforced by the Ravalli County Board of Health. These regulations shall govern the disposal of wastewater from private and public buildings and the design of all wastewater treatment and disposal systems within the jurisdiction of Ravalli County except these regulations shall not govern an approved municipal system nor shall these regulations govern the disposal of wastewater by means of an approved municipal wastewater systems designed in accordance with DEQ Circular DEQ-2 (approved means an approval by the Department of Environmental Quality, DEQ). These regulations do apply to non-municipal systems designed in accordance with DEQ Circular DEQ-4 and located in municipal jurisdictions.

All occupied buildings, including dwellings and residences, must have an approved means of wastewater treatment in accordance with these regulations regardless of whether they currently have a piped water system. Any office or business with employees must have approved toilet facilities within 200 feet of the structure.

SECTION 1.3 Authority

Under authority of Section 50-2-116 Montana Code Annotated (MCA) and Administrative Rules of Montana (ARM) 17.36.920, the Ravalli County Board of Health has authorized a permit system for the review, approval, or denial of design and inspection of all wastewater treatment and disposal systems identified in Section 1.2 to be installed within Ravalli County.

SECTION 1.4 Purpose

The Ravalli County Board of Health declares the purpose of these regulations is to protect the health, safety, and welfare of the public and to prevent the spread of communicable disease by ensuring wastewater is disposed in a manner that will not create a health hazard, adversely affect the environment, pollute state waters, impair the enjoyment or use of property or create a nuisance. These regulations further this purpose by setting forth minimum standards for the installation, alteration, repair, extension, and use of wastewater treatment and disposal systems within Ravalli County.

SECTION 1.5 Designation of Authority

The Ravalli County Board of Health designates the Ravalli County Environmental Health Department under the oversight of the Ravalli County Health Officer with

the authority to administer and enforce these regulations. The Ravalli County Board of Health reserves the right to hear any variance request or appeal to actions of the Department or Health Officer. The Board also retains the authority to amend these regulations as necessary.

SECTION 1.6 Definitions

The definition of terms are as defined in ARM 17.36.912, with the addition of the following terms:

- (1) "Alteration" means changing any wastewater treatment system in any way that is determined by the Department to substantially change the intent of the original permit. This may include the following:
 - A. By increasing the flow or the strength of the wastewater into the system in any of the following ways:
 - i. by changing or adding dwelling units,
 - ii. by adding structures that will have plumbing,
 - iii. by adding a business that will have employees, or
 - iv. by adding to the living capacity of the unit.
 - B. By connecting a different structure to the system than the originally approved structure,
 - C. By reconnecting to the system after a period of nonuse greater than five years,
 - D. By lengthening or shortening the drainfield, replacing the septic tank or any components of the system, or
 - E. By building structures on top of the system including parking areas or paving.

For example, under this definition, adding a new bedroom to an existing dwelling would be an alteration and require a permit.

- (2) "Existing system" means a system that was installed prior to 1972 or was installed with a valid permit in or after 1972.
- (3) "Installation Permit" means a written permit issued by a registered sanitarian from the Environmental Health Department or other authorized representative permitting the construction, alteration, repair, extension, or use of a wastewater treatment system under these regulations. An installation permit is different from, and shall not be confused with, a site evaluation.
- (4) "Occupied Building" means any structure with living areas, sleeping areas, plumbing, a piped water supply, a kitchen, or laundry facilities.
- (5) "Replacement" means the act which a person performs when installing another wastewater treatment system to supplant a system that is currently in use, or has been used within the last year.

ARTICLE 2 GENERAL REQUIREMENTS

The general requirements for these regulations are as referenced in ARM 17.36.913.

ARTICLE 3 ADMINISTRATIVE REQUIREMENTS

SECTION 3.1 Application for Installation Permit

- A. No person may install, alter, repair, extend or connect to a wastewater treatment system within Ravalli County unless the Department has issued an Installation Permit, except as exempted in Section 3.1.C below. This permit shall be for the specific installation, alteration, repair, extension, or connection of a wastewater treatment system.
- B. When a permit is required, it must be issued prior to starting construction on the structure or building or moving a structure or building onto the parcel.
- C. Minor maintenance may be performed on a wastewater treatment system without first obtaining an Installation Permit. These activities are limited to: pumping the septic tank, cleaning the effluent filter, replacement of the effluent pump with a pump of equal specifications, unplugging sewer pipes, adjusting the flow leveling devices in a distribution box, and other minor activities if approved by the Department.
- D. No person may install a wastewater treatment system that is different from specifications in the Installation Permit as issued by the Department, unless the Department has previously approved the change in writing or the installation is being supervised and certified by a professional engineer and is approved by the Department during the “as-built” review.
- E. It is the responsibility of the wastewater treatment system installer to ensure all setback requirements are met. In the event the installer discovers a situation that will prevent the system from being constructed as designed, it is the responsibility of the installer to halt further installation and contact the Department.
- F. No person may install, alter, extend or repair a wastewater treatment system within Ravalli County unless that person holds a valid Ravalli County Wastewater Treatment System Installer Certification or is exempt as per Section 3.5.
- G. Application for a wastewater treatment system Installation Permit shall be submitted by the owner of the lot or the owner’s duly authorized agent on forms provided by the Department and shall include the following information:
 - 1. Name, address, and phone number of the property owner.
 - 2. Legal description of the property, geocode, parcel number, and physical address of the wastewater treatment system.
 - 3. Installer’s name, certification number, and phone number. This information may be provided when the permit is written.
 - 4. A lot layout drawn to scale, consisting of:
 - a. property lines
 - b. existing and proposed structures, including basements

- c. all existing and proposed wells, including but not limited to wells for domestic water or irrigation supply, within 100 feet of the wastewater treatment system
- d. all streams, lakes, springs, ponds, irrigation ditches, and other surface water sources and the 100-year floodplain and floodway located within 100 feet of the wastewater treatment system or within the distance of the length of mixing zone, if the mixing zone requested is greater than 100 feet
- e. driveways and parking areas
- f. utility lines
- g. any existing wastewater or sewage disposal systems or facilities
- h. a scale (for example: 1 inch = 20 feet)
- i. direction of slope on the property
- j. a north directional arrow
- k. plan for proposed wastewater treatment system and a replacement area.
- l. The Department may assist with the preparation of some of the above items.

- H. The applicant must have a site evaluation completed within 25 feet of the proposed wastewater treatment system absorption area (drainfield). The site evaluations for systems, not approved by the state under the sanitation in subdivisions regulations or required to be designed by an engineer or registered sanitarian in accordance with Sections 3.1.N and 3.1.O below, must be completed by the county. The Department may require the applicant provide more than one test hole depending upon the variability of the soils, the type of information necessary and/or the anticipated size of the absorption area. All test holes must be marked with a 4-inch diameter 10-foot perforated pipe installed vertically to a depth of at least 8 feet.
- I. The Department may require: a) a percolation test be completed within the area of the proposed absorption area and replacement area if variable soil textures or limiting layers are evident or suspected, and the percolation test must be performed in accordance with Circular DEQ-4; b) a water sample analysis for contaminants of concern, for example, nitrate (as nitrogen) to complete the nondegradation analysis, total coliform analysis for water supplies that may be influenced by surface contamination or other sources, specific conductance for parcels that are proposed for subdivision or may have water quality concerns or other analysis determined to be necessary.
- J. The Department may require groundwater monitoring in the area of the proposed absorption area if it has reason to believe groundwater will be within 7 feet of the surface at any time of the year within the boundaries of the wastewater treatment system absorption area. The Department will determine if groundwater monitoring is required. The applicant may be required to install

groundwater observation wells to a depth of at least 8 feet to determine the seasonally high groundwater level. The Department, or a designated representative, shall monitor the observation wells through the seasonally high groundwater period when the applicant has completed the groundwater monitoring application form and paid the fee in accordance with the fee schedule available in the Ravalli County Environmental Health Department office. Measurements will occur for a long enough period of time to detect a peak and a sustained decline in the groundwater level.

The Department may reject groundwater monitoring information during a drought year in accordance with Appendix C of Circular DEQ-4; or if historic information is available that indicates a high groundwater situation; or if monitoring was not conducted during the time of year to detect the seasonally high groundwater level; or if site conditions exist that are not typical to the property. An example of site conditions being atypical would be a property where normal irrigation practices have been altered or suspended during the season when groundwater monitoring is conducted but irrigation will or does resume after monitoring is conducted.

Groundwater monitoring pipes must remain in the ground until the construction layout of the drainfield is completed, and the final inspection of wastewater treatment system unless the pipe must be removed to construct the system.

Any property owner, excavator, certified installer, or other person that tampers with any groundwater observation wells to alter the groundwater monitoring results shall be subject to penalties according to the fee schedule and the groundwater monitoring results shall be void.

- K. Evidence must be provided that the wastewater treatment system will comply with all adopted zoning, floodplain, covenants, and land use planning requirements for the area.
- L. Additional information relating to the installation of an acceptable wastewater treatment system may be required by the Department, due to the unique characteristics of the proposed system location and/or site characteristics.
- M. The wastewater treatment system must be designed either by the Department, a licensed professional engineer or a registered sanitarian.
- N. The Ravalli County Board of Health and its authorized agents may require a property owner to retain the services of a professional engineer or registered sanitarian in the event the system cannot be designed by the Department in a timely manner, is beyond the abilities of current professional staff, or if:
 - 1. It is an experimental system.
 - 2. It serves a commercial or industrial establishment.
 - 3. It serves a multiple-user residence or commercial building.

4. It is located in an area with challenging site conditions, including but not limited to slopes between 15%-25%, wetlands, flooding, limiting layers, elevated nutrients.
 5. It has a specific public or environmental health concern, including but not limited to non-residential strength wastewater, existing contamination, history of failed systems.
 6. The design includes use of a pumping system, siphon system, or pressure-dosed distribution system.
 7. It includes the use of specific grades of sand or gravel in different layers such as elevated sand mounds, recirculating and intermittent sand filters, and trickling filters.
- O. Public and multiple user systems with a design wastewater flow greater than or equal to 2500 gallons per day must be designed by a professional engineer. Operation and management of these systems must meet, and a management entity must be established to meet, the criteria in the **Voluntary National Guidelines for Management of Onsite and Clustered (Decentralized) Wastewater Treatment Systems** - (EPA 832-B-03-001), **Date Published:** 03/01/2003.
- P. The Department may conduct such investigations, examinations, tests and site evaluations, as it deems necessary to verify information contained in an application. The filing of an application for a wastewater treatment system installation permit shall be deemed a granting of approval by the applicant to the Department for necessary site visits and inspections during normal business hours.
- Q. A permit fee shall accompany the completed application when submitted to the Department for review. Checks are payable to the Ravalli County Environmental Health Department (RCEH). The fee schedule is available at the Ravalli County Environmental Health Office. If the applicant initiates a change in the wastewater treatment system design after it is approved by the Department, a fee may be required by the Department for review and inspection costs associated with the alteration of the design. Penalties for starting construction without a permit and the permit fee must be paid in accordance with the fee schedule before a permit is issued.
- R. An applicant may appeal the approved Department design in accordance with Section 7.1. The applicant may employ a licensed professional engineer or registered sanitarian for an alternative design to be approved by the Department. Additional fees may be required according to the fee schedule.

SECTION 3.2 Denial of Installation Permit or Disapproval of Plans

- A. The Ravalli County Board of Health or its authorized agents shall deny an application for a wastewater treatment system Installation Permit, if it is determined:
1. That, due to physical limitations, the property cannot support a wastewater treatment system in conformance with these regulations, or

2. That the applicant has failed to supply all data necessary to make a determination as to whether or not the wastewater treatment system conforms to these regulations, or
 3. That the wastewater treatment system design, as proposed, will not conform to these regulations, or
 4. That the wastewater treatment system will not comply with zoning, land use, covenants, or other local or state regulations, or
 5. That site conditions have changed since the time of subdivision approval or if the approval was based on incorrect or incomplete information.
- B. Written notice of the denial of a permit with the reason for denial shall be given to the applicant.
- C. Upon denial of a permit or a decision by the Department, the applicant may appeal this decision to the Ravalli County Board of Health.

SECTION 3.3 Expiration of Installation Permits

- A. An Installation Permit is valid for twelve months from the date of issuance. If the wastewater treatment system is not completed within twelve months of issuance of the permit, the Installation Permit will expire. The Department may grant a twelve-month extension if contacted by the applicant prior to the end of the original twelve month period. The extension may be denied if the Installation Permit is no longer in compliance with current regulations. Permits may be reissued after expiration upon payment of fees and after review and approval by the Department in accordance with the current regulations.
- B. Any changes in plans, specifications, or details of construction after the Installation Permit has been issued will invalidate the permit, unless:
1. The changes were approved in writing by the Department or by the supervising engineer, or
 2. The changes are allowed by Section 3.1.C and Section 3.1.D.

SECTION 3.4 Inspections

- A. For systems designed by the Department, the following items must be completed:
1. A final inspection of the installation by the sanitarian or a certified installer is required prior to covering the completed wastewater treatment system. It shall be the responsibility of the installer to notify the Department at least twenty-four (24) hours in advance to schedule a final inspection. If the final inspection cannot be made within 24 hours, arrangement for the inspection shall be negotiated between the Department inspector and the installer. A certified installer may inspect and verify that the system was built according to the permit, only when authorized by the Department. In such cases, a drawing of the system with components labeled and located, with measurements shown, must be submitted to the department within seven (7) days after completion of the system, with a signed statement by the installer that the completed system meets approved specifications.
 2. If it is determined that the installation is in compliance with the Installation Permit and these regulations, and the system is connected to the structure,

- the installation is complete. Upon completion, the Department shall sign the inspection form and send a copy of the permit to the property owner. The completed Permit shall constitute the final approval of the installation.
3. If it is determined that the installation is not in compliance with the construction details, distance requirements, or other conditions set forth in the Installation Permit and these regulations, the system must be modified as required by the Department and re-inspected. The fees for the modifications and inspection shall be according to the fee schedule available at the Ravalli County Environmental Health Office.
 4. If the system has been covered prior to the final inspection without Department approval, uncovering it may be required to complete the final inspection.
- B. For systems designed by consultants, the following items must be completed:
1. The Department shall require the system designer to inspect the system and provide written verification that the system was installed in accordance with the approved design. If the system designer is not available to conduct the inspection, the permit must be amended in writing by the Department to designate another qualified inspector. The Department shall also require that an "as-built drawing" of the system be completed and signed by the designer and submitted to the department within 60 days of completion of the project.
 2. Any alteration of the wastewater treatment system after the final inspection and not approved in writing by the Department invalidates the permit.

SECTION 3.5 Wastewater Treatment System Certified Installers

- A. Except as provided in Section 3.5(B), no person may install, alter, repair, or extend a wastewater treatment system unless he/she holds a valid Ravalli County Wastewater Treatment System Installer Certification. Employees of a Ravalli County Wastewater Treatment Certified Installer shall not be required to be certified if the certified installer supervises the installation of the system and verifies that it is installed in accordance with the permit and these regulations.
- B. Any landowner of record may install a wastewater treatment system on his/her own property without obtaining an Installer Certification. However, the landowner is subject to all requirements given in Section 3.5(C) below with the exception of the exam fee.
- C. Requirements for Certified Installer:
1. Application for a Wastewater Treatment System Certified Installer shall be made on forms provided by the Department and is valid for one year. The application fee for the Certified Installer shall be the Installer Certification Exam Fee according to the fee schedule available at the Ravalli County Environmental Health Office. Certifications shall expire on December 31st of each year and must be renewed within sixty (60) days. The renewal fee must accompany the renewal application. An expired certification shall be subject to the application fee and other requirements for new certifications.
 2. Prior to the issuance of certification, the Department will require that the applicant demonstrate adequate knowledge of these regulations and the ability to properly install a wastewater treatment system in compliance with

these regulations. This would include, but not be limited to, successfully passing a written exam, passing field inspection of work conducted by the applicant, and demonstrating understanding of and ability to use tools to set level and grade of a system, such as an optical transit or laser level. Prior to the renewal of certification, the Department may require that the applicant demonstrate compliance with these regulations. Prior to the renewal of a certification, the Department may require that all outstanding permit information and as-built drawings for completed work be submitted to the Department.

3. The Installer shall complete all installations, alterations, repairs or extensions of any wastewater treatment system in compliance with these regulations and with the conditions set out in the Installation Permit.
 4. The Installer shall request a final inspection by the Department not less than twenty-four (24) hours before the inspection is to be made.
- D. Denial or Revocation of a Wastewater Treatment System Installer Certification
1. A certification may be denied or revoked by the Ravalli County Board of Health for any of the following reasons:
 - a. The applicant/certified installer was found guilty of a violation of these regulations or an order by the Board of Health or the Board of Health issued a penalty for a violation as provided for under Section 7 within one year preceding the application.
 - b. The applicant/certified installer had a Wastewater Treatment System Installer Certification revoked within one year preceding the application.
 - c. The applicant/certified installer offered false information in order to obtain Certification or any permit issued in accordance with these regulations within one year preceding the application.
 - d. The applicant/certified installer failed to meet the requirements of the certification application including any required demonstration of knowledge, including but not limited to passing the written exam.
 2. Written notice of denial or revocation signed by the Ravalli County Board of Health or its authorized agents stating the reasons for denial or revocation shall be delivered to the applicant by certified mail or personal delivery.
- E. Appeal to the Board of Health: The Board of Health's decision regarding the denial or revocation of a certification may be appealed to the Board of Health. The request for an appeal must be submitted in accordance with Section 7.1.

SECTION 3.6 Licensed Septic Tank Pumpers

- A. Septic tank pumpers shall be licensed by the Montana Department of Environmental Quality in accordance with ARM 17.50.803.
- B. Disposal sites for wastewater pumped from wastewater treatment systems shall be reviewed and approved in writing by the Ravalli County Board of Health or its designated representative in accordance with ARM 17.50.809. The inspection fee shall be submitted to the Department with the application for evaluation of each disposal site.

- C. The county shall have the right to inspect and evaluate disposal sites as deemed necessary.

ARTICLE 4 TECHNICAL REQUIREMENTS

SECTION 4.1 Compliance

Wastewater treatment systems shall comply with the specifications set forth in ARM, Title 17, Chapter 36, Subchapter 9, and the current version of Circular DEQ-4, Montana Standards for Subsurface Wastewater Treatment Systems and Circular DEQ-2, Design Standards for Wastewater Facilities, except as noted in the following sections.

The minimum lot size for wastewater treatment systems shall be in accordance with state regulations for subdivisions, ARM 17.36.340, unless site specific restrictions require a larger area to fit the system requirements.

SECTION 4.2 General Requirements

- A. The Department may require a fifty (50) foot minimum separation from property boundaries to absorption systems and water supply wells if the adjacent property has limited space available for a water supply or absorption system, for example, lot sizes are less than one (1) acre.
- B. As allowed under Section 76.4.112(1)(c), MCA, new wastewater treatment systems must be located so that the mixing zones, approved under ARM 17.30.501 and ARM 17.30.715, do not extend onto adjacent private property unless an easement is obtained. This requirement does not apply to wastewater treatment systems with mixing zones approved prior to the effective date of these regulations.
- C. No component of any wastewater treatment system may be located under structures or driveways, parking areas or other areas subject to vehicular traffic, except for those components of the system designed to accommodate such conditions. Drainfields must not be located in swales or depressions where runoff may flow or accumulate.
- D. Holding tanks and sealed pit privies must meet the requirements in ARM 17.36.916 and may be allowed only in facilities owned and operated by the local, state, or federal government or in facilities licensed by the department of public health and human services and inspected by the local government.
- E. Unsealed pit privies are not allowed.
- F. Septic tanks shall be located within 50 feet of the structure with no bends greater than 45 degrees. Cleanouts must be installed within 3 feet of the outside foundation wall. If site conditions require a greater distance between the tank and the structure or bends greater than 45 degrees, the sewer lines between the

foundation wall and the septic tank must be placed at a minimum uniform slope of ¼ inch per foot unless pressurized, and shall have additional cleanouts installed at every point where cumulative bends exceed 135 degrees or length exceeds 100 feet.

- G. Standard distribution boxes with flow levelers or dipper distribution boxes must be provided as approved by the Department for all gravity distribution systems. Reasonable access must be provided for the distribution boxes.
- H. At-grade systems shall only be used if the depth to a limiting layer is at least 54 inches from the natural ground surface and the trenches are at least 6 inches in depth and the 48 inches of natural soil to the limiting layer is maintained.
- I. No ponds, excavations that contain or convey surface water, or flood irrigation may be constructed or used within 50 feet of the septic tank and within 100 feet of the drainfield at any time after the system is installed.
- J. Septic tanks and sealed components for new wastewater treatment systems must be located at least 100 feet outside the designated 100-year floodplain. Septic tanks that are located less than 200 feet from the designated 100-year floodplain must be located within 20 feet of the structure. Other components, the absorption system, and sand mounds must meet the specification in ARM 17.36.901 et. Seq.
- K. Any septic tank that will be located in groundwater for any time of the year must be properly sealed and anchored to prevent floatation and inundation.
- L. Any system installed in soils with a high percentage of coarse sands and gravels, typically with an application rate of 0.8 gpd/ft² and percolation rate of less than 6 minutes per inch, must have the trenches sand-lined in accordance with Chapter 12, Circular DEQ 4. Additionally, in the soils described above, if groundwater or another limiting layer is within 6 feet of the bottom of the trench, the trenches must be sand-lined and pressure-dosed in accordance with Chapter 12 and Chapter 9, Circular DEQ 4.

SECTION 4.3 Variances

- A. The Board of Health may grant a variance from the requirements of these regulations if all the criteria in ARM 17.36.922 are met. The Board of Health may grant a variance from a requirement only if it determines that granting a variance will not violate Article 2 of these regulations except for the rule from which the variance is requested.
- B. Any person wishing to apply for a variance shall make application on forms provided by the Department and shall supply such information as the Board of Health or its authorized agents deem necessary to properly evaluate the proposal. An application fee shall accompany the application.

- C. Upon receipt of the completed application and fee, the Department shall schedule and hold a public hearing in accordance with Section 7.2 of these regulations.
- D. A variance may be approved only in the event that all of the following circumstances, if applicable, are found to exist:
 - 1. That the situation is unique.
 - 2. That through currently acceptable scientific practices and sound engineering principles, the applicant provides evidence demonstrating that the proposal for a variance would not be detrimental to the purposes of these regulations.
 - 3. That no illegal actions on the part of the applicant are the cause for this variance request.
- E. The Board of Health's decision on the variance may be appealed to the Montana Department of Environmental Quality pursuant to ARM 17.36.924.
- F. The Board of Health acknowledges the need for progress in wastewater treatment and encourages the development of technology and design that will further the development of wastewater treatment and its efficient disposal. Designs that lack sufficient technical data or background for inclusion in the state regulations, Montana Department of Environmental Quality, ARM 17.36.320, and Circular DEQ-4 must be approved by a variance from the Board of Health for an Experimental System Permit in accordance with ARM 17.36.922.
 - 1. The Board of Health, in accordance with the standards and procedures set forth in this article, shall review any proposal for an experimental wastewater treatment system. In approving such systems, the Board of Health may impose reasonable conditions to further the purposes of these regulations.
 - 2. Any person wishing to apply for permission to install an experimental wastewater system shall make application on forms provided by the Department and shall supply such information as the Board of Health or its authorized agents deems necessary to properly evaluate the proposal. An application fee shall accompany the permit.
 - 3. The Board of Health may approve an application for an experimental type system only if the system has been designed by a Licensed Professional Engineer or a Registered Sanitarian and only if the application provides an acceptable plan for the installation of a back-up system.
 - 4. Requirements for an Experimental Installation Permit:
 - a. The design specifications and any previous laboratory or field test results must be submitted with the application.
 - b. The installation permit fee must be submitted with the application.
 - c. The necessary field tests that will produce adequate data shall be agreed upon between the manufacturer and the Board of Health.
 - d. The system must be installed and inspected as stipulated in the permit.
 - e. The field tests shall be completed and the results of the tests shall be submitted to the Department. All test costs shall be borne by the manufacturer or the applicant.

- f. The Board of Health shall determine the duration of the testing period and shall collect a fee for administrative costs associated with the testing period.
- g. A backup system of an approved design shall be provided.

ARTICLE 5 EXISTING WASTEWATER TREATMENT SYSTEMS

An existing system is a system that was installed prior to 1972 or was installed with a valid permit in or after 1972.

SECTION 5.1 Continuation of Use of Existing Systems

- A. The use or maintenance of a properly functioning existing wastewater treatment system may be continued. The existing system may not be altered, enlarged, repaired or extended without a permit. This article shall not be construed to permit a use or connection to a structure when the existing system violates these regulations, or any applicable laws or regulations in place at the time of installation of the system.
- B. It is strongly recommended that any existing wastewater system on a property being sold or otherwise changing ownership be reviewed at the time of sale for compliance under Article 5 so that any future repairs or alterations may be properly planned.

SECTION 5.2 Repair, Alteration, Enlargement or Extension of Existing System

- A. No person may repair, alter, enlarge, or extend an existing wastewater treatment system without a valid permit.

In order to assess the condition of the existing system the Department may:

- 1. review and inspect the system or as built plans, and
- 2. require the owner to pump the septic tank and submit a pumper's report, and
- 3. require the excavation of portions of the system to determine the type and size of the system if it cannot be determined by other means.

The Department may require the existing system, or parts of the existing system, be replaced or upgraded when the repair, alteration, enlargement, or extension of the system may cause the existing system to fail. Some typical examples of possible conditions and their remedies are specified in Attachment 1, but in all cases it is the jurisdiction of the Department to insure that any system is installed and operating properly for each specific site.

Existing systems that were installed with a permit but not connected or used for five years or more must be reviewed and approved by the Department to insure that they function properly and that they meet the standards in effect at the time they were installed. Typical examples of possible conditions and their remedies are specified in Attachment 1. If the system was permitted and properly installed and complied with the standards in effect at the time it was installed, this review will not

jeopardize its continued use for the approved purpose, but may require cleaning or upgrading to make the system operate in accordance with these standards.

Systems or system components that were installed without a permit, or were not installed in accordance with the approved specifications or regulations, may have to be abandoned if they cannot be brought into compliance with current standards. The components or system must be properly abandoned in accordance with Section 5.2.C.

- B. All existing systems for which repairs are required shall be brought into compliance with these regulations except when specifically approved by the Department.
- C. When the application is made for an additional wastewater treatment system on a lot upon which a wastewater treatment system presently exists that does not have a valid permit, the system must be brought into compliance with these regulations before further systems will be reviewed and approved. Unapproved systems that cannot be brought into compliance with current regulations must be properly abandoned, including pumping the septic tank and completely filling the tank with clean fill.
- D. Any new construction on a structure that has plumbing may require an alteration permit. The property owner, building owner, building contractor, and system installer must contact the Department for a determination if a permit is necessary and, if necessary, obtain the permit.
- E. Replacement septic tanks, sealed components, other wastewater treatment components and the absorption systems must meet the requirements in Section 4.2.J. unless the property does not include area outside the floodplain that would meet these requirements. The wastewater treatment system, including the septic tank, sealed components, other components, and absorption system must meet the requirements in ARM 17.36.918 and the Ravalli County Floodplain Regulations. An increase in the permitted wastewater or effluent flow from an existing wastewater treatment system located in the designated 100-year floodplain is prohibited.

ARTICLE 6 ENFORCEMENT AND PENALTY

SECTION 6.1 MISREPRESENTATION

Any permit, certification, or approval granted under these regulations if based upon misrepresentation of the facts shall be void. Failure to disclose any relevant material or facts to obtain an approval shall be considered misrepresentation.

SECTION 6.2 PENALTIES

Any violation of these regulations or order of the Ravalli County Board of Health is subject to criminal prosecution in accordance with Section 50-2-123 and 50-2-124, MCA.

As per Section 50-2-123, MCA: Compliance order authorized.

If a person refuses or neglects to comply with a written order of a state or local health officer within a reasonable time specified in the order, the state or local health officer may cause the order to be complied with and initiate an action to recover any expenses incurred from the person who refused or neglected to comply with the order. The action to recover expenses shall be brought in the name of the county.

As per Section 50-2-124, MCA: Penalties for Violations

- (1) A person who does not comply with rules adopted by the local board is guilty of a misdemeanor. On conviction, he shall be fined not less than \$10 or more than \$200.
- (2) Except as provided in subsection (1) of section and Section 50-2-123 MCA, a person who violates the provisions of this chapter or rules adopted by the Montana Department of Environmental Quality under the provisions of this chapter is guilty of a misdemeanor. On conviction, he shall be fined not less than \$10 or more than \$500, imprisoned for not more than 90 days, or both.
- (3) Each day of violation constitutes a separate offense.
- (4) Fines, except justice court fines, shall be paid to the county treasurer.

ARTICLE 7 GENERAL PROVISIONS

SECTION 7.1 Appeals to the Department or Board of Health

- A. All decisions regarding permits, certifications, or other matters made by the Department may be presented to the department director for review.
- B. Upon denial of a permit or certification or a decision by the Department, an individual may make appeal to the Board of Health. The appeal to the Board of Health must be received within sixty (60) days of the denial of a permit, certification or other decision by the Department. If requested by the applicant or if deemed necessary by the Board of Health, a public hearing shall be held at the next regularly scheduled Board of Health meeting.

SECTION 7.2 Public Hearings

When the Board of Health is required or determines it necessary to hold a public hearing, as provided for by the terms of these regulations, notice of the hearing shall be given according to Section 7-1-2121, MCA, Publication and Content Notice.

SECTION 7.3 Right to Inspect

The Board of Health or authorized agent may inspect any wastewater treatment system in Ravalli County if there is reason to believe that the system may pose a public health threat and to ensure that it is being maintained in proper working order and in compliance with these regulations. The owner or occupant of the

property must allow the Board of Health or authorized agent access to the property at reasonable times for the purpose of making such inspections as are necessary. Inspections shall be made after reasonable notice is given to the owner or occupant.

SECTION 7.4 Conflict of Ordinances

- A. Any case where a provision of these regulations is found to be in conflict with a provision of any zoning, building, fire, safety or health regulation, or code of the county existing on the effective date of these regulations, the provision which, in the judgment of the Board of Health or authorized agents, establishes the higher or more stringent standard for the promotion and protection of the health and safety of the people shall prevail.
- B. In any case where a provision of any other ordinance or code of the county existing on the effective date of this regulation, which establishes a lower or less stringent standard for the promotion and protection of the health and safety of the people, the provisions of these regulations shall be deemed to prevail.
- C. These regulations supersede all prior regulations or amendments thereof established by the Board of Health pertaining to wastewater treatment systems in Ravalli County, Montana.

SECTION 7.5 Effect of Partial Invalidity

If any section, subsection, paragraph, sentence, clause or phrase of these regulations should be declared invalid for any reason, such decision shall not affect the remaining portions of these regulations, which shall remain in full force and effect; and to this end, the provisions of these regulations are hereby declared to be severable.

SECTION 7.6 Effective Date

The effective date of these regulations shall be March 1, 2006.

Attachment 1
Examples of possible conditions and remedies for review of old systems

<u>Example Condition</u>	<u>Possible Remedy</u>
Existing system installed prior to 1972	System must be carefully examined to determine the specifications and condition of each component, <ol style="list-style-type: none">Septic tank pumped and inspected,Verify tank is watertight, with possible leak test required,Portions of the drainfield laterals should be exposed to determine length, depth, bedding, and end caps, andThe distribution box should be exposed and inspected.
Existing system is located where groundwater is less than 48 inches from the natural ground surface	<p>If the system was permitted, installed, and the final inspection completed by the county it may continue in use until it needs to be replaced or it could be replaced by a level 2 treatment system or elevated sand mound.</p> <p>If the system was not permitted, it may have to be abandoned if it cannot be brought into compliance with the current standards at another location than meets the separation requirements.</p>
Old septic tank is undersized	<p>If the existing septic tank is reinforced concrete and can pass a leak test, a second septic tank may be added in series to create adequate volume.</p> <p>If the tank is not concrete, is not watertight, or is leaking, it must be replaced with a new tank of proper size.</p>
A six year old system that has not been used for the last five years	The septic tank must be pumped and inspected for leaks. An effluent filter and tank risers should be installed.
A permitted system for a four-bedroom house that has a 1000 gallon septic tank	The owner may choose to install a second tank in series, or should inspect and pump the tank every two years.
A six year old system that has never been used, but the owner now wants to connect a new house	Tank must be inspected for cleanliness and soundness, distribution levelers must be re-leveled, effluent filter and access risers should be installed if not present, inlet pipe must be flushed through the cleanout to prove its integrity (i.e. no break from tank settling).